

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

STEVE MACRINA, Individually and On
Behalf of All Others Similarly Situated,

Plaintiff,

v.

J. ROGER MOYER, JR., THOMAS
DAUTRICH, GEORGE W. GRANER,
EQUIPMENT FINANCE, LLC, and BANK
OF LANCASTER, N.A.,

Defendants.

No. 07 Civ. 4108 (JGK)

BRIAN JOHNSON, Individually and On
Behalf of All Others Similarly Situated,

Plaintiff,

v.

STERLING FINANCIAL CORP., J. ROGER
MOYER, JR., J. BRADLEY SCOVILL, and
TITO L. LIMA,

Defendants.

No. 07 Civ. 4652 (JGK)

CASTLE STRATEGIC TRADING, LLC,
Individually and On Behalf of All Others
Similarly Situated,

Plaintiff,

v.

J. ROGER MOYER, JR., THOMAS
DAUTRICH, GEORGE W. GRANER,
EQUIPMENT FINANCE, LLC, and BANK
OF LANCASTER, N.A.,

Defendants.

No. 07 Civ. 5594 (JGK)

JEFFREY M. COOLEY, Individually and On
Behalf of All Others Similarly Situated,

Plaintiff,

v.

STERLING FINANCIAL CORP., J. ROGER
MOYER, JR., J. BRADLEY SCOVILL, and
TITO L. LIMA,

Defendants.

No. 07 Civ. 5671 (JGK)

**REPLY MEMORANDUM OF LAW IN FURTHER SUPPORT OF THE MOTION OF
KENNETH A. SMITH FOR APPOINTMENT AS LEAD PLAINTIFF AND IN
OPPOSITION TO THE COMPETING MOTIONS OF PAUL AND REGINA MILLER,
CASTLE STRATEGIC TRADING, LLC, AND THE NEW MEXICO FUNDS**

Kenneth A. Smith (“Smith”) respectfully submits this reply memorandum of law in further support of his motion for appointment as lead plaintiff, appointment of lead counsel, and consolidation of related actions, and in opposition to the competing motions of Paul and Regina Miller, Castle Strategic Trading, LLC, and the New Mexico Funds.¹ Smith seeks to represent himself and all others similarly situated who, between April 27, 2004 and May 25, 2007, inclusive (the “Class Period”), purchased or otherwise acquired securities of Sterling Financial Corp. (hereinafter “Sterling Financial” or the “Company”). Smith also seeks appointment of the law firm of Cohen, Milstein, Hausfeld & Toll, P.L.L.C. (“Cohen Milstein”) as Lead Counsel and the consolidation of all related actions.

Movant Smith files this reply to address the arguments raised by Castle Strategic Trading (“Castle”) in its opposition memorandum filed in this action on August 9, 2007 (Docket Entry No. 35). Specifically, Castle argues that Smith’s motion is untimely because it was filed on July 25, 2007, one day after the deadline for filing lead plaintiff motions expired. Even a cursory review of the dockets, however, would have shown Castle’s counsel that Smith timely filed his motion for appointment as lead plaintiff on July 24, 2007, in this action and in each of the related actions captioned above. Castle has apparently merely copied a meritless argument it made in a brief filed in another case, *Buckwalter v. Sterling Financial Corp.*, No. 07-cv-2171 (E.D. Pa.), and presented it to the Court here. Such duplication is wholly

¹ On August 6, 2007, the Sterling Investor Group withdrew its motion for appointment as lead plaintiff (Docket Entry No. 28). Likewise, District No. 9, I.A. of M. & A.W. Pension Trust and the San Antonio and St. Louis Funds withdrew their motions for appointment as lead plaintiff on August 7, 2007 (Docket Entry Nos. 29 and 30).

inappropriate, and raises significant questions about the adequacy of Castle's counsel. *See In re Bio-Technology Gen. Corp. Sec. Litig.*, No. 02-6048, 2006 U.S. Dist. LEXIS 81268, at *14 n.5 (D.N.J. Oct. 26, 2006) (noting "with great concern" counsel's "'cutting-and-pasting' of boilerplate from one case to the next," and urging counsel to "exercise greater diligence" in its filings). Smith therefore joins the New Mexico Funds in expressing serious reservations about Castle's ability to adequately represent the Class. *See The New Mexico Funds' Reply Brief in Further Support of Motion for Appointment as Lead Plaintiff*, at 2 (Docket Entry No. 39).

Because an individual and institution, serving jointly as class representatives, will most adequately represent the diverse interests of the plaintiff class in this litigation, Smith again respectfully requests that the Court appoint him as Lead or Co-Lead Plaintiff and his choice of counsel, Cohen Milstein, as Lead or Co-Lead Counsel.

Dated: August 20, 2007

Respectfully submitted,

COHEN, MILSTEIN, HAUSFELD
& TOLL, P.L.L.C.

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***Attorneys for Kenneth A. Smith and
Proposed Lead Counsel for the Class***